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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tyler Bielman

Application No.: 10/689,971

Confirmation No.: 4435

Filed: October 20, 2003

Art Unit: 3711

For: METHOD AND ARTICLE OF
MANUFACTURE FOR COLLECTIBLE
GAME

Examiner: V. K. Mendiratta

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As required under § 41.37(a), this brief is filed more than two months after the Notice of Appeal filed in this case on June 13, 2006, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

- I. Real Party In Interest
- II Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments

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- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument

Appendix A Claims

Appendix B Evidence

Appendix C Related Proceedings

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Wizards of the Coast, Inc.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 20 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 1-14, 18-21, 25, 27-32, and 36-41
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 15-17, 22-24, 26, 33-35, and 42-51
4. Claims allowed: None
5. Claims rejected: 15-17, 22-24, 26, 33-35, and 42-51

C. Claims On Appeal

The claims on appeal are claims 15-17, 22-24, 26, 33-35, and 42-51.

IV. STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Applicants' invention is a method of playing a game. There are a number of collectible trading card games and collectible miniatures games. Generally, games that employ game pieces, such as trading cards or miniature figures, use them as props or markers when the game is played. They are not, therefore, an integral part of the game play. Applicants' invention helps to solve these problems.

Applicants' invention provides a game and method of playing a game incorporating and integrating game pieces into game play. See, e.g., Specification at paragraph [0050]. In some examples of the game, players of the game use a toy or model that is initially constructed by the players. See, e.g., Specification at paragraph [0052]. For example, the players may punch out or remove flat pieces from a card, and then manually build a toy using those pieces, such as two different vehicles. See, e.g., Specification at paragraph [0053]. Forming game pieces out of such cards enables game makers to easily

manufacturer the toys. Additionally, game packages containing flat cards may take up less shelf space in a store as compared with other games, thus providing a low inventory risk to a seller. See, e.g., Specification at paragraphs [0089], [0092]. Continuing with this example, one or more optional accessories can be removably secured to the vehicle. The accessories may be, for example, parts of a base vehicle. See, e.g., Specification at paragraph [0054].

Under game play, the players take turns moving the constructed vehicles with respect to each other, and generating random numbers (e.g., rolling dice, using a spinner, etc.). See, e.g., Specification at paragraph [0075]. When one player achieves a "hit" or otherwise affects a negative event with respect to the other player, a piece from the other player's vehicle is removed. Under this example, game play continues as the vehicles battle each other and pieces are removed until a certain number or type of pieces are removed from one of the vehicles, which results in the other player being the winner. See, e.g., Specification at paragraph [0077]. As an alternative, rather than removing pieces, substitute pieces representing damage to the vehicle are replaced on the vehicle. See, e.g., Specification at paragraph [0084].

The rejected independent claims are directed to various methods for playing a game with game pieces formed from generally-planar components, and integrating the game pieces into the play of the game. The independent claims are described as follows:

1. Independent Claim 15

Claim 15 is directed to a method of playing a game. The game provides first and second toy bases for use by respective first and second players. The toy bases comprise multiple components. See, e.g., Specification at paragraphs [0057]-[0060], Figures 7, 9, 14. The toy bases are formed as generally-planar pieces that are manually punched out or removed from a rectangular panel by one of the players. See, e.g., Specification at paragraphs [0049], [0053], [0054], Figures 14A-B. The toy bases represent at least a portion of a vehicle or a robot. See, e.g., Specification at paragraphs [0049], [0050], [0066], [0081]-[0082]. The toy bases are manually assembled by the players. See, e.g.,

Specification at paragraphs [0052], [0094]. Accessories are removably secured to locations on the toy bases. See, e.g., Specification at paragraphs [0081], Figures 14-15. The toy bases are moved by the players under the predetermined rules of play. See, e.g., Specification at paragraphs [0072], [0076]. A random number is generated for a first of two players, and upon a occurrence of a negative event under the predetermined rules of play and based at least in part on the generated random number, either (1) an accessory or one of the multiple components of a toy base associated with a second of two players is removed or (2) an accessory or one of the multiple components of a toy base associated with a second of two players is replaced by a substitute accessory that represents damage to the accessory or one of the multiple components. See, e.g., Specification at paragraphs [0075], [0076], [0084]. A similar step is performed by the second player. The generating of random numbers and removing or replacing of accessories or components is repeated under the predetermined rules of play until one of the players wins the game. See, e.g., Specification at paragraphs [0075], [0076], [0084].

2. Independent Claim 42

Claim 42 is directed to a method of playing a game. The game provides first and second toy bases for use by respective first and second players. The toy bases comprise multiple components. See, e.g., Specification at paragraphs [0057]-[0060], Figures 7, 9, 14. The multiple components are formed as generally-planar pieces that are manually punched out or removed from a rectangular panel by one of the players. See, e.g., Specification at paragraphs [0049], [0053], [0054], Figure 14A-B. The toy bases are distributed as a set within a package that obscures the toy bases from a purchaser, and the toy bases are randomly collated from other toy bases in distribution. See, e.g., Specification at paragraph [0087], Figures 14-15. The toy bases are manually assembled by the players. See, e.g., Specification at paragraphs [0052], [0094]. The toy bases are moved by the players under the predetermined rules of play. See, e.g., Specification at paragraphs [0072], [0076]. A random number is generated for a first of two players, and upon a occurrence of a negative event under the predetermined rules of play and based at least in part on the generated random number, either (1) one of the multiple components of

a toy base associated with a second of two players is removed or (2) one of the multiple components of a toy base associated with a second of two players is replaced by a substitute component that represents damage to the accessory or one of the multiple components. See, e.g., Specification at paragraphs [0075], [0076], [0084]. A similar step is performed by the second player. The generating of random numbers and removing or replacing of components is repeated under the predetermined rules of play until one of the players wins the game. See, e.g., Specification at paragraphs [0075], [0076], [0084].

3. Independent Claim 48

Claim 48 is directed to a method of playing a game. A goal and a series of actions for play for achieving the goal between first and second players are defined. See, e.g., Specification at paragraph [0048]. The game provides first and second models to be assembled by at least one of the players. The models comprise multiple components configured to be manually assembled without use of glue or permanent fasteners. First and second predetermined subsets of the multiple components are configured to be readily attached to the first and second models. See, e.g., Specification at paragraphs [0057]-[0060], Figures 7, 14, 15. The multiple components are formed within at least first and second panels of planar, substantially rigid material, and are configured to be manually removed from the first and second panels. The first and second panels each have a width-to-length ratio of approximately 5.5 to 8. See, e.g., Specification at paragraphs [0049], [0053], [0054], Figure 14D. The toy bases are manually assembled, including removable securing the predetermined subsets of components to the models, wherein the predetermined subsets help in furthering the game goal. See, e.g., Specification at paragraphs [0052], [0094]. The toy bases are moved by the players under at least one of the series of actions of play. See, e.g., Specification at paragraphs [0072], [0076]. A random value is generated for a first of two players, and upon a occurrence of a negative event under the predetermined rules of play and based at least in part on the generated random value, either (1) one of the predetermined subset of components of a model associated with one of the players is removed or (2) one of the predetermined subset of components of a toy model associated with a second of two players is replaced by a

substitute component. The game goal is achieved when all predetermined subset components are removed from one of the models. See, e.g., Specification at paragraphs [0075], [0076], [0084].

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed under appeal are whether claims 15-17, 22-24, 26, 33-35, and 42-51 are unpatentable under 35 U.S.C. § 103(a). Specifically, whether claims 15-17, 22-24, 26, 33-35, and 42-51 are unpatentable over Hagen (U.S. Patent Application Publication No. 2003/0020239) in view of Liu (U.S. Patent No. 6,520,827).

VII. ARGUMENT

A. Legal Standards for Obviousness

All of the claims on appeal stand rejected as obvious under 35 U.S.C. § 103(a). 35 U.S.C. § 103(a) provides:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

"[T]he [E]xaminer bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d (BNA) 1955, 1956 (Fed. Cir. 1993). "A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." *Id.* (quoting *In re Bell*, 991 F.2d 781, 782, 26 U.S.P.Q.2d (BNA) 1529, 1531 (Fed. Cir. 1993)).

To establish a *prima facie* case of obviousness, the Examiner must (1) identify prior art references that disclose all the elements of the claims, and (2) provide a suggestion or motivation to modify the references to produce the claimed invention. MPEP § 2143. With

respect to the second requirement, the Examiner must provide a suggestion or motivation to combine from within the prior art, and may not rely upon hindsight gleaned from applicants' invention itself. See, e.g., *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1050-51, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir. 1988).

Under these standards, applicants' pending claims would not have been obvious. The Examiner has not identified prior art references that disclose all the elements of the pending claims. The Examiner also has not provided any motivation from within the prior art to modify the cited references so as to produce the claimed invention. The pending claims should be allowed.

B. The Cited References

1. The Hagen Reference

Hagen discloses an apparatus and method that discloses a card game in combination with action-figures. Hagen discloses "broadly stated" aspects of the invention, as a "card game in combination with action figures having removable armor and weapons, wherein each removable part has a corresponding card." Hagen, paragraph [0006]. During the play of Hagen, players receive cards and an action figure. The cards provide game play information (such as movement, speed armor, and so on), and also determine events that occur during game play. *Id.*, paragraphs [0007]-[0008]. During game play, items may be removed from the action figures involved in the play. *Id.*, paragraphs [0008] and [0020]. However, as discussed in the "Rules of Play" section of Hagen (paragraphs [0082] – [0091]), "one wins by defeating all of his foes...a foe can be defeated by 1) razing their ulster cards 100, 180, and 260 in an attack 111, 2) reducing them to 3 or fewer zGear cards; or 3) knocking them down three turns in a row" *Id.*, paragraph [0091]. Thus, Hagen describes a card game that uses action figures to enhance the enjoyment of the game without considering the action figures in determining a winner.

2. The Liu Reference

The apparatus of Liu attempts to improve on spinning tops built from flat boards. Liu, 1: 10-23. The improved spinning top is used in spinning top combat games, where

two spinning tops collide with one another and the one that stops spinning is declared the winner. *Id.*, 1: 14-17. According to Liu, building the spinning tops from flat pieces allows spinning tops of Liu "to be easily packed and transported," an improvement over other spinning tops. *Id.*, 3: 45-50.

C. The Office Action has not established a *prima facie* case for obviousness

Under the above standards, applicants' claimed invention would not have been obvious for lack of a *prima facie* case. For at least the reasons described in greater detail below, the Office Action has failed to satisfy the burden of presenting a *prima facie* case of obviousness because the Office Action does not identify prior art references that disclose all the elements of the pending claims. For example, several pending claims include, *inter alia*, the feature of players of the game assembling game pieces, components, accessories, and so on, while playing a game. As explained in greater detail below, none of the cited references teach or suggest this feature, and the Office Action glosses over this element, stating: "Hagen teaches a method of playing a game wherein it basically suggests in general assembling game playing figures to using them in simulating combat." Emphasis added. See Office Action, paragraph 2.

Furthermore, the Office Action states that "it does not make any difference if game pieces are configured from flat product or three-dimensional solid product and would not be critical to playing the game." See Office Action, paragraph 2. Clearly, the Examiner, in responding to the most recent Response, has decided to ignore elements of the claims, where he himself deems them not to be "critical to playing the game." However, as stated above, in order to establish a proper *prima facie* case, the cited references must show each and every element of a claim, and not merely elements arbitrarily deemed to be "critical" by an Examiner.

For at least these reasons, a *prima facie* case has not been established, and the pending claims should be allowed.

D. Neither Hagen nor Liu teach each and every element of independent claim 15.

Claims 15-17, 22-24, 26, 33-35 are taken as a group.¹

Independent claim 15 recites a method of playing a game by first and second players, comprising, *inter alia*, the following elements:

- (a) manually assembling [a] first toy base by the first player; removably securing at least one accessory to a location on the first toy base by the first player, wherein the accessory has use under predetermined rules of play;
- (b) generating a first random number and playing the game according to the predetermined rules of play by the first player; generating a second random number and playing the game according to the predetermined rules of play by the second player;

and

- (c) repeating the generating of random numbers and the removing or replacing of accessories or components, under the predetermined rules of play, until one of the first or second players wins the game at least in part because of the removing of accessories or components from the toy base, or because of the replacing of the accessories or components on the toy base with substitute accessories or substitute components.

Applicant respectfully submits that the combination of Hagen and Liu at least fail to disclose the above listed elements, for the following reasons.

Regarding element (a) above:

Although the Office Action contends, as discussed above, that "Hagen teaches a method of playing a game wherein it basically suggests in general assembling game playing figures," Hagen does not disclose a method of playing a game including manually assembling toy bases by players of the game, as disclosed in claim 15. As is shown in

¹ The applicant has grouped the claims to simplify issues on appeal. The applicant, however, does not admit that the claims in any group stand or fall together for purposes other than this appeal. In particular, the applicant reserves the right to argue the patentability of each claim separately in a subsequent action, such as reopened prosecution or litigation.

Figures 31-35 of Hagen, the "bases" (such as element 20 in Figure 31) are three dimensional action figure types. Armor and weapons, or other elements or accessories are then added. There is no suggestion or discussion in Hagen with respect to players assembling element 20 of Hagen. Any "base" of Hagen is preassembled.

Regarding element (b) above:

There is no suggestion or disclosure in Hagen or Liu to generate random numbers during game play. The game play in Liu is directed to constructing spinning tops and colliding them with other spinning tops. The game play in Hagen is based on instructions from drawn cards. For example, Hagen discloses that "all movement is measured in card lengths," and "the player announces the card he's attacking with." See Hagen, paragraphs [0085]-[0086]. Therefore, there is no suggestion or discussion in Hagen or Liu that random numbers are generated during game play, nor that game play is affected by generated random numbers.

Regarding element (c) above:

Possibly more importantly, there is no suggestion or disclosure in Hagen or Liu of game play where players repeat the generating of random numbers and the removing or replacing of accessories or components, under the predetermined rules of play, until one of the first or second players wins the game at least in part because of the removing of accessories or components from the toy base, or because of the replacing of the accessories or components on the toy base with substitute accessories or substitute components.

In fact, the most recent Office Action does not even address this element. Looking to the references, Liu, as mentioned above, is directed to spinning tops, and therefore does not disclose such a game play element. As described above, Hagen discloses how players can win the game, in a section entitled "Victory":

"One wins by defeating all of his foes and being the last fighter standing. A foe can be defeated by 1) razing their ulster card 100, 180,

and 260, in an attack 111; 2) reducing them to 3 or fewer zGear cards; or 3) knocking them down three turns in a row." See Hagen, paragraph [0091].

Although Hagen does disclose removable pieces on action figures, Hagen does not mention the removable pieces being involved in determining a winner in the game. Furthermore, Hagen discloses that "the above game be played without the use of dolls, wherein damage or positioning is represented on a board, sheet of paper, or separate damage indicator display." See, e.g., Hagen, paragraph [0157]. Therefore, the game of Hagen does not rely on the removing of pieces in determining a winner of the game, instead relying on cards or on how the cards effect the game play. In contrast, players of the claimed invention "repeat the generating of random numbers and the removing or replacing of accessories or components, under the predetermined rules of play, until one of the first or second players wins the game at least in part because of the removing of accessories or components from the toy base." Emphasis added.

For at least these reasons, applicant submits that independent claim 15 is patentable over the combination of Hagen in view of Liu.

E. Neither Hagen nor Liu teach each and every element of independent claim 42.

Claims 42-47 are taken as a group.

Independent claim 42 recites a method of playing a game by first and second players, comprising many substantially similar elements found in claim 15 that are distinguished from the cited references in the above discussion, and is thus allowable for the same reasons. Additionally, claim 42 is further distinguished over the cited references because the claim comprises, *inter alia*, the element of "wherein the first and second toy bases are distributed as a set within a package that obscures the first and second toy based from a purchaser, and wherein the first and second toy bases are randomly collated from other toy bases in distribution."

The most recent Office Action does not address this element, and there is nothing in either reference disclosing such an element. Therefore, for at least these reasons, claim 42 is allowable over the cited references.

F. Neither Hagen nor Liu teach each and every element of independent claim 48.

Claims 48-51 are taken as a group.

Independent claim 48 recites a method of playing a game by first and second players, comprising many substantially similar elements found in claim 15 that are distinguished over the cited references in the above discussion, and is thus allowable for the same reasons. Additionally, claim 42 is further distinguished over the cited references because the claim comprises, *inter alia*, the element of "wherein the first and second panels each have a width-to-length ratio of approximately 5.5 to 8."

The most recent Office Action does not address this element, and there is nothing in either reference disclosing such an element. Therefore, for at least these reasons, claim 48 is allowable over the cited references.

G. The motivation to combine the references with respect to claims 15, 42 and 48 is insufficient.

The most recent Office Action, states that "in order to conveniently package and transport game kits, it would have been obvious to provide game pieces that can be formed from punched out panels. One of ordinary skill in the art at the time the invention was made would have suggested providing flap panels to form game pieces by punching out components." See Office Action, paragraph 2. Applicant respectfully disagrees.

Although Liu does provide a disclosure that "the inclusion of parts in the flat board enables convenient packaging and transporting of the spinning top," (Liu, 1: 40-45), one of ordinary skill in the art would not be motivated to combine Hagen with Liu. Hagen aims to provide a card game that may be played with action figures. There is no discussion in Hagen of packaging and transporting game kits.

In fact, Hagen does not even mention problems associated with packaging and transporting game kits. Instead, Hagen focuses on improving "prior-art game designs" that "fail to incorporate action figures or parts of action figures." Hagen, paragraph [0004]. Hagen is not concerned with ease of distribution or with packaging of games, and thus would not turn to Liu. Instead, Hagen is focused on creating a card game for use with a doll. As Hagen clearly states:

"Therefore, it is readily apparent that there is a need for a game that utilizes both trading cards and action figures or toys and provides the user with a more interactive and intellectually stimulating adventure. It is, therefore, to the provision of such an improvement that the present invention is directed." Hagen, paragraph [0005].

Therefore, one of ordinary skill would not look to the disclosure of Liu as Liu does not solve problems addressed or discussed in Hagen.

In sum, although Liu provides a *reason* for creating spinning tops out of flat board pieces, Liu does not provide any *motivation* to be combined with Hagen. Therefore, for at least these reasons, claims 15, 42, and 48 are patentable over the cited references.

H. Conclusion

The Office Action fails to establish a *prima facie* case for obviousness with respect to independent claims 15, 42 and 48. The cited references do not disclose each and every element of the claims, and there is no motivation in the references to justify a combination of the two references. Therefore, applicant respectfully submits that the pending claims are allowable over the prior art.

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Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 236528002US2 from which the undersigned is authorized to draw.

Dated: September 6, 2006

Respectfully submitted,

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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 10/689,971

1-14. (Cancelled)

15. (Previously Presented) A method of playing a game by first and second players, the method comprising:

providing at least first and second toy bases for use by respective first and second players, wherein each toy base comprises multiple components,
wherein the multiple components of each toy base are formed as generally-planar pieces,

wherein the generally-planar pieces are manually punched out or removed from at least one rectangular panel by at least one of the first and second players, and

wherein each of the first and second toy bases represent at least a portion of a vehicle or robot;

manually assembling the first toy base by the first player;

manually assembling the second toy base by the second player;

removably securing at least one accessory to a location on the first toy base by the first player, wherein the accessory has use under predetermined rules of play;

removably securing at least one accessory to a location on the second toy base by the second player;

moving the first manually assembled toy base under the predetermined rules of play by the first player;

moving the second manually assembled toy base under the predetermined rules of play by the second player;

generating a first random number and playing the game according to the predetermined rules of play by the first player;

upon occurrence of an negative event under the predetermined rules of play and based at least in part on the first generated random number, then either

- (i) removing the accessory or one of the multiple components of the second toy base, or
- (ii) replacing the accessory or one of the multiple components of the second toy base with a substitute accessory or substitute component, respectively, wherein the substitute accessory or substitute component represents damage to the accessory or one of the multiple components; and

generating a second random number and playing the game according to the predetermined rules of play by the second player;

upon occurrence of an negative event under the predetermined rules of play and based at least in part on the second generated random number, then either

- (i) removing the accessory or one of the multiple components of the first toy base, or
- (ii) replacing the accessory or one of the multiple components of the first toy base with a substitute accessory or substitute component, respectively; and

repeating the generating of random numbers and the removing or replacing of accessories or components, under the predetermined rules of play, until one of the first or second players wins the game at least in part because of the removing of accessories or components from the toy base, or because of the replacing of the accessories or components on the toy base with substitute accessories or substitute components.

16. (Previously Presented) The method of claim 15, further comprising customizing at least the first toy base by substituting at least some of the multiple components with other components associated with another toy base.

17. (Previously Presented) The method of claim 15, further comprising manually assembling a random number generator from two or more pieces of substantially flat material by one of the first or second players.

18-21. (Cancelled)

22. (Previously Presented) The game method of claim 42, further comprising at least one piece of equipment and at least one random value generator, wherein the equipment is associated with a function under the rules of play, and wherein the function is associated with at least one predetermined value or symbol derived from the random value generator.

23. (Previously Presented) The game method of claim 48 wherein as the first or second model loses at least one point under the rules of play, at least one of the predetermined subset of components is replaced with a corresponding substitute part, wherein the substitute part depicts damage with respect to the one replaced predetermined subset of components.

24. (Previously Presented) The game method of claim 42 wherein the generally-planar pieces are configured with mating slots and grooves to be assembled by hand.

25. (Cancelled) .

26. (Previously Presented) The game method of claim 48 wherein the first model represents a vehicle or a robot.

27.-32. (Cancelled).

33. (Previously Presented) The game method of claim 42, further comprising a set of self-adhesive labels for customizing the first or second toy bases.

34. (Previously Presented) The game method of claim 42 wherein the first toy base has a first set of graphics applied thereto, and wherein another toy base is substantially identical to the first toy base, but which has a second set of graphics applied thereto.

35. (Previously Presented) The game method of claim 42 wherein the first toy base is distributed in fewer quantities than the second toy base.

36. – 41. (Canceled)

42. (Previously Presented) A method of playing a game by first and second players, the method comprising:

providing at least first and second toy bases for use by respective first and second players, wherein each toy base comprises multiple components, wherein the multiple components of each toy base are formed as generally-planar pieces,

wherein the generally-planar pieces are manually punched out or removed from at least one rectangular panel by at least one of the first and second players, and,

manually assembling the first toy base by the first player;

manually assembling the second toy base by the second player;

moving the first manually assembled toy base under predetermined rules of play by the first player;

moving the second manually assembled toy base under the predetermined rules of play by the second player;

generating a first random number and playing the game according to the predetermined rules of play by the first player;

upon occurrence of an negative event under the predetermined rules of play and based at least in part on the first generated random number, then either

- (i) removing one of the multiple components of the second toy base, or
- (ii) replacing one of the multiple components of the second toy base with a substitute component, wherein the substitute component represents damage to the one component; and

generating a second random number and playing the game according to the predetermined rules of play by the second player;

upon occurrence of an negative event under the predetermined rules of play and based at least in part on the second generated random number, then either

- (i) removing one of the multiple components of the first toy base, or
- (ii) replacing one of the multiple components of the first toy base with a substitute component; and

repeating the generating of random numbers and the removing or replacing of components, under the predetermined rules of play, until one of the first or second players wins the game at least in part because of the removing of components from the toy base, or because of the replacing of the components on the toy base with substitute components.

43. (Previously Presented) The method of claim 42, further comprising customizing at least one of the toy bases by substituting at least some of the multiple components with other components associated with another toy base.

44. (Previously Presented) The method of claim 42, further comprising manually assembling a random number generator from two or more pieces of substantially flat material included in the set.

45. (Previously Presented) The method of claim 42 wherein each of the first and second toy bases represent at least a portion of a vehicle or robot.

46. (Previously Presented) The method of claim 42, further comprising first and second weapon accessories for use with the first and second toy bases, wherein the first and second weapon accessories are respectively associated with differing first and second ranges.

47. (Previously Presented) The method of claim 42 wherein a single stock keeping number is associated with the set and other sets of toy bases.

48. (Previously Presented) A method of playing a game, comprising:
defining a goal and a series of actions of play for achieving the goal between first and second players;
providing first and second models to be assembled by at least one of the first and second players,
wherein each of the models comprises multiple components configured to be manually assembled without use of glue or permanent fasteners,
wherein at least first and second predetermined subsets of the multiple components are configured to be readily removed and reattached to the respective first and second models,
wherein the multiple components are formed within at least first and second panels of planar, substantially rigid material, and are configured to be manually removed from the first and second panels, and

wherein the first and second panels each have a width-to-length ratio of approximately 5.5 to 8;

manually assembling the first model from the multiple components, including removably securing the first predetermined subset of components to the first model, wherein the first predetermined subset of components help in furthering the game goal;

manually assembling the second model from the multiple components, including removably securing the second predetermined subset of components to the first model, wherein the second predetermined subset of components help in furthering the game goal;

moving the first manually assembled model under at least one of the series of actions of play;

moving the second manually assembled model under at least one of the series of actions of play;

generating a first random value and furthering the goal under at least one of the series of actions of play between the first and second players; and

generating a second random value and furthering the goal under at least one of the series of actions of play between the first and second players; and

wherein the game method further includes:

- upon occurrence of a negative event, either
 - (i) manually removing one of the predetermined subset of components from the first or second model, or
 - (ii) manually replacing one of the predetermined subset of components from the first or second model with a substitute component,
- and
- achieving the game goal when all of the first or second predetermined subset of components are removed or replaced with respect to the first or second model.

49. (Previously Presented) The method of claim 48, wherein at least some of the predetermined subsets of components either inflict damage on an opponent player's model under the series of actions of play and in furtherance of the goal, or protects a player's model against damage inflicted by the opponent player's model.

50. (Previously Presented) The method of claim 48, further comprising manually constructing a random value generator that generates a random number when actuated, and wherein the random value generator is composed of two or more pieces manually assembled by one of the first or second players without use of glue or permanent fasteners.

51. (Previously Presented) The method of claim 48, wherein the multiple components are packaged for distribution as a unit, and wherein the unit has one of at least three distribution categories, wherein the three distribution categories are common, uncommon, and rare, which correspond respectively to three levels of distribution rarity.

Appendix B

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

Appendix C

No related proceedings are referenced in II. above, or copies of decisions in related proceedings are not provided, hence no Appendix is included.